

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2015

C O R A M

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. Nos.21419 and 21420 of 2015

W.P.No.21419 of 2015:-

State Bank of India
rep. By its Authorised Officer,
Stressed Assets Management Branch
1112, Raja Plaza
Avinashi Road
Coimbaore 641 037.

... Petitioner

Vs

1. The District Collector
(District Magistrate)
Coimbatore.
2. M/s.Gangotri Textiles Ltd
Old No.42 New No.35
Robertson Road
R.S.Puram
Coimbatore 641 002.
3. Mr.Manoj Kumar Tibrewal
Managing Director
No.10 Amarjothi Apartments
No.93 West pashiyakaralu Road
R.S.puram, Coimbatore 641 002.
4. Mr.Mohanlal Tibrewal
Executive Director
No.10 Amarjothi Apartments
No.93 West Pashiyakaralu Road
R.S.puram
Coimbatore 641 002.
(RR 2 to 4 given up)

... Respondents

W.P. No. 21420 of 2015:-

Kotak Mahindra Bank Ltd
rep. By its Authorised Off
Mr.Shabu C.Varghese
No.1054 Ground Floor
Gowtham Center Annex
Avinashi Road
Coimbatore 641 018.

... Petitioner

Vs.

1. The District Collector
(District Magistrate)
Tiruchirapalli.
2. M/s.J.J.Education Health
and Charitable Trust
(JJ EHCT)
rep. By Chairman
Mr.K.Ponnusamy
having Office at Ammapettai
Poongulathupatti Post
Tiruchirapalli 620 009.
3. Mr.K.Ponnusamy
4. Mr.G.Venkatesan
5. Mrs.Priya
6. Mrs.Prabhavathi
7. Mrs.Renuka Jeyaraman

... Respondents

(No relief is sought against respondents 2 to 7
and the respondents 2 to 7 are given up
in this writ petition).

Prayer in W.P.No.21419 of 2015:-Writ Petition filed under Article 226 of the Constitution of India seeking for the issuance of a writ of mandamus to direct the first respondent to pass appropriate orders in the petitioner's application dated 30/9/2014 in file Ref.No.21339/2014 submitted that under Section 14 of the SARFAESI Act, rendering necessary assistance to the petitioner in terms of Section 14 of the SARFAESI Act to take vacant physical possession of the secured asset as set out therein.

Prayer in W.P.No.21420 of 2015:-Writ Petition filed under Article 226 of the Constitution of India seeking for the issuance of a writ of mandamus to direct the first respondent to pass appropriate orders in the petitioner's application dated 13/10/2014 submitted

under Section 14 of the SARFAESI Act, rendering necessary assistance to the petitioner in terms of Section 14 of the SARFAESI Act to take vacant physical possession of the secured asset viz., (I) Land measuring an extent of 4316 $\frac{1}{2}$ sq.feet, comprised in T.S.No.1900/1, (II) Land measuring an extent of 2691 $\frac{3}{4}$ sq feet, comprised in T.S.No.1898 part (III) Land measuring an extent of 194 sq.feet, T.S.No.2/2B (Old T.S.No.1900/1 part) thus a total extent of 7,202 $\frac{1}{4}$ sq.feet of Thamalavarubhayam Village.

For petitioner : Mr.E.Omprakash
for M/s.Ramalingam and Association
(in both the W.Ps.)

For respondents: Mr.P.S.Sivashanmugasundram
Special Government Pleader
for R.1.
(in both the W.Ps.).

C O M M O N O R D E R
(Order of the Court was made by SATISH K. AGNIHOTRI, J.,)

The grievance of the petitioner is that the petitioner had filed petitions under the provisions of Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act") on 30.09.2014 and 13.10.2014 respectively, seeking assistance of the concerned respondent for taking over possession of the secured asset in furtherance of exercise under Section 13(4) of the SARFAESI Act. However, the concerned respondent has not taken any step so far, when the object of the said provision is to extend assistance to secure possession of the secured asset, at the earliest.

2. The learned Special Government Pleader appearing for the first respondent submits that a direction to that effect may be issued to the concerned respondent.

3. Accordingly, we direct the concerned respondent to take up the matters and decide the same in accordance with law and on their own merits as expeditiously as possible, preferably, within a period of six weeks from the date of receipt of a copy of this order. The concerned District Magistrate/District Collector is also directed to verify as to whether there is any tenancy or lease in respect of the secured asset and if it is so, the same has to be considered in the light of the judgment of the Supreme Court in Harshad Govardhan Sondagar vs. International Assets Reconstruction Company Ltd. and Others¹.

¹ (2014) 6 SCC 1

4. The writ petitions stand disposed of with the above directions. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

ra

1

To

1. The District Collector
(District Magistrate)
Coimbatore.

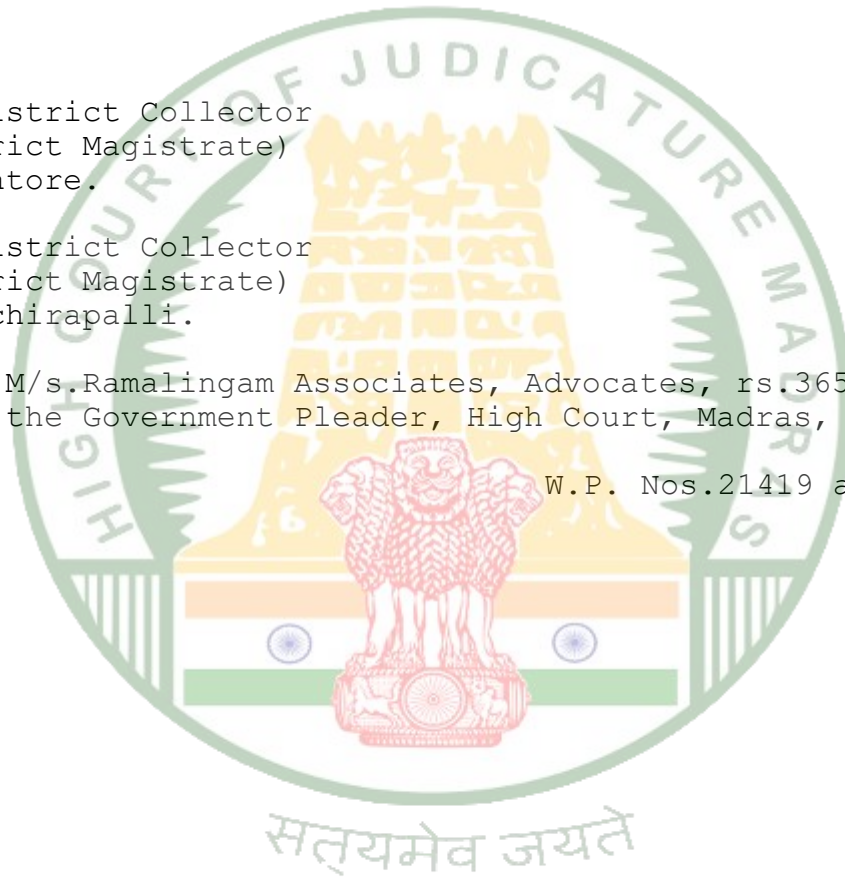
2. The District Collector
(District Magistrate)
Tiruchirapalli.

+4 ccs to M/s.Ramalingam Associates, Advocates, rs.36513, 36514.

+2 ccs to the Government Pleader, High Court, Madras, rs.36272, 36273

W.P. Nos.21419 and 21420 of 2015

ppa(co)
kra(29/07)



WEB COPY